

REMARKS

Claims 2-7 and 12 remain in this application. Claim 1 has been canceled. Claims 2, 5, 6, and 12 have been amended. Claims 8-11 and 13-20 have been withdrawn.

Claim 2 has been amended to overcome the 35 U.S.C.103(a) by becoming independent and adding the limitations of claim 1 and 12.

Claims 5 and 6 have been amended to depend upon claim 2

Claim 12 was objected to by the examiner as "*-- being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims*". Claim 12 has been amended to overcome the objection by being rewritten in independent form, including the limitations of claim 1, as suggested by the examiner and is therefore now in condition of allowance.

Reconsideration of this application is requested.

Claim rejections U.S.C. 102

Claims 1 and 5-7 were rejected under 35 U.S.C.102(b) as being anticipated by Farris et al. in U.S. Patent No. 5,538,506. This rejection is respectfully traversed.

Claim 1 has been canceled no longer claiming matter which formed the basis for the examiners rejection.

Claims 5-7 have been amended to depend upon claim 2 no longer subject to the 35 U.S.C.102(b) rejection.

Claim rejections U.S.C. 103

Claims 2 and 3 were rejected under 35 U.S.C. 103(a) as being unpatentable over Farris et al. in U.S. Patent No. 5,538,506 in view of Zhang et al. in U.S. Patent No. 6,457,612. This rejection is respectfully traversed.

In relation to claim 2, this claim has been amended to become independent and include all of the limitations of both claim 1 and claim 12. As amended claim 2 should be in condition of allowance as claim 12 was held allowable by the examiner if rewritten in independent form including all of the limitations of the base claim 1, which is the present case.

While perhaps unnecessary applicant would like to discuss the differences in claim 2 and the prior art of Farris et al. in view of Zhang et al.

As amended claim 2 states:

2. *"A pre-filled disposable pipette comprising:*

a) a hollow bulb containing a medicinal product and having an upper end and a lower end further having a substantially centered opening,

b) a primary grasping tab having an upper edge and a lower edge that centrally interfaces with and conforms to the upper end of said hollow bulb, "

The examiner suggested that Farris et al. had all of the features of the claimed invention except the hollow bulb having a primary grasping tab was not disclosed but Zhang et al. taught their use. Farris et al. had no need to look toward Zhang et al. which would completely change their syringe by replacing their reservoir (30), formed as a bellows type diaphragm (20), with the hollow bulb of Zhang et al. There can be no prima facie obviousness merely because the prior art can be modified to the claimed form without a suggestion of its desirability and nowhere was there any mention of a bulb with a grasping tap on the upper end of the bulb. The reservoir of Farris et al. along with the purchase area (24) allows one's fingers to be placed on the purchase area and compress the reservoir. If a grasping tab were in the way this entire method of operation of Farris et al. would not be possible.

As amended claim 2 further states:

_____ *"c) a medication **transfer tube** having an upper end that interfaces with the centered opening on said hollow bulb, and a lower end,*

*d) a medication **fill tube** having an upper end and a lower tip,*

e) a break-away notch located between the lower end of said medication transfer tube and the upper end of said medication fill tube, wherein when said notch is caused to be twisted, the medication fill tube breaks off from said medication transfer tube, allowing the medicinal product in said hollow bulb to be dispensed from the lower end of said medication transfer tube, and

f) means for sealing the lower tip of said medication fill tube, wherein said lower tip sealing means is comprised of a fourth lower tip sealing means comprising inserting over an ambient temperature lower tip, a heated element that melts and crimps the lower tip, wherein after the heated element is removed a sealed lower tip is produced."

The instant invention includes both a fill tube and a transfer tube which Farris et al. even in view of Zhang et al. are all silent regarding the requirement for both tube sections. Farris et al. do not teach how the medication is even filled at the factory and Zhang et al. have only a single tube. It is submitted that the applicant defines over the prior art cited and one of ordinary skill would not find it obvious to incorporate such structure and function.

Of course the overwhelming fact is the incorporation of the limitation of claim 12 since the examiner has already found this claim to be allowable.

Relative to claim 3, this claim depends upon claim 2 and therefore for the same reasons discussed regarding claim 2 this claim is no longer obvious over Farris et al. in view of Zhang et al.

Allowable Subject Matter

Claim 12 was objected to as being dependent upon a rejected base claim, but

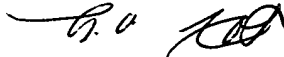
would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As amended claim 12 is now independent having all of the limitations of its base claim 1, therefore claim 12 is now in condition of allowance.

Accordingly, the rejections under 35 U.S.C. 102 and 103 are deemed overcome by applicant's amendment and remarks.

Withdrawal of the rejection is respectfully requested and allowance of the instant application is solicited.

A request for extension of time under 37 CFR 1.136(a) form PTO/SB/22 is enclose herewith along with a check in the amount of 450.00 to cover the fee required for this extension for response within the second month.

Respectfully Submitted,



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